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EXAMINER	
CHEN, TE Y	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/056,821	Applicant(s) KEE ET AL.	
	Examiner Susan Y Chen	Art Unit 2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 January 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) *13-23 and 25-32* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 24* is/are rejected.

7)☐ Claim(s) *12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2&3*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-32 are presented for examination.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-12 and 24, drawn to file version management, classified in class 707, subclass 203.

II. Claims 13-22, drawn to computer to computer data transfer regulating, classified in class 709, subclass 232.

III. Claims 23 and 25-32, drawn to client/server multi-computer data distribution processing.

During a telephone conversation with Applicant's attorney (Mr. John Branch) on 07/13/2004 a provisional election was made with traverse to prosecute the invention of group 1, claims 1-12 and 24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-22 and 23, 25-32 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 664 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 37 of U.S. Patent No. 6,405,219. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claims 1 and 24 of the present application merely repeat the features of claims 1 and 37 of U.S. Patent No. 6,405,219 with fewer limitations. However, it is obvious for an ordinary skilled person at the time the invention was made, to remove limitations from patented claims with a broader scope set of claims for seeking further timewise extension protection of the invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, applicant cited that "A method of updating content over network...", it is unclear what does the claimed content refer to [e.g., it is a file content? Or others?]. Furthermore, it is unclear how the claimed method was implemented [e.g., is it being implemented by pencil/paper or others?]

As to claims 2-12, these claims have the same defects as their base claim, hence are rejected for the same reason.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,991,306 issued to Burns et al.

As to claims 1 and 24, the '306 patent disclosed the claimed method, comprising the following steps:

a) updating a first version of file on a origin server with a second version of the file, wherein the second version of the file is associated with content on the origin server [e.g., the download processing performed by the local service provider 110, Fig. 4; col. 8, lines 23-40; col. 9, lines 56-65; col. 11, lines 32-46];

b) when the second version of the file is updated on the origin server, automatically replacing on a cache server each entry associated with the first version of the file with a corresponding entries in the second version of the file, wherein content on

the cache server is automatically updated in response to updating of content on the origin server [e.g. Fig 6 and associated text, col. 11, lines 57-60].

As to claims 2-3, the '306 patent further discloses that the system having step to pre-populating the content on the cache server when updating the content on the origin server [e.g., the claimed limitations read by the pre-caches processing performs by the local service provider; col. 10, lines 37-47], wherein the pre-populating the cache server includes pushing content from a server [e.g., col. 11, lines 57-60].

As to claim 4, the '306 patent further discloses that the pre-populating the caches server includes the caches server pulling content from an origin server [e.g., col. 11, lines 32-46].

As to claims 5-6 and 7-9, the '306 patent further discloses using time-to-live tags to expire and update a portion of the content on the cache server [e.g., col. 10, lines 59 – col. 11, line 19].

As to claim 10, the '306 patent further discloses the file includes an HTML Web page [e.g., the CNN Web page at col. 9, lines 16-21].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,306 issued to Burns et al. in view of U.S. Patent No. 6,594,664 issued to Estrada et al. (hereinafter referred as '664).

As to claim 11, the '306 patent discloses all the features as discussed above in claim 1. The '306 patent did not specifically teach the control technique of on-line/off-line uninterrupted updating of the content for the original server/cache server connected by the Internet as recited by applicant.

However, the '664 patent discloses the control technique of on-line/off-line uninterrupted updating of the content for the original server/cache server connected by the Internet [e.g., the Title, Abstract, lines 12-19, Fig(s). 12-33 and associated texts].

Therefore, with the teachings of the '306 and '664 patents in front of him/her, it would have been obvious for an ordinary skilled artisan at the time the invention was made to be motivated to modify the invention of '306 patent with the uninterrupted on-

line/off-line control mechanism to update the contents of the original/cache servers connected by the Internet as taught by the '664 patent. Because by doing so, the combined system would be upgraded to allow an efficient modification of the contents of the original and cache servers on the network without interrupting the activities performed by an end user.

Allowable Subject Matter

Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

> Claim 12 is allowable because the prior art on record fails to disclose the features of instant invention –when one of the origin servers is bought back on-line, the cache server will automatically expire a time field for all entries of each file associated with the updated second content– in a combination as claimed by applicant.

Conclusion

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35

U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should provide and link to the most specific page and line numbers of the disclosure where best support is found (see 35 U.S.C. 132).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Bamford et al. (U.S. Patent No. 6,353,836) which discloses a method and apparatus for transferring data from the cache of one node to the cache of another node; Lambert et al. (U.S. Patent No. 6,629,138) which discloses a method and apparatus for storing and delivering documents over internet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y Chen whose telephone number is (703) 308-1155. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (703) 308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2171

July 16, 2004

UYEN LE
PRIMARY EXAMINER